

STATE OF NORTH CAROLINA  
COUNTY OF WAKE

IN THE GENERAL COURT OF JUSTICE  
SUPERIOR COURT DIVISION  
95 CVS 1158

HOKE COUNTY BOARD OF  
EDUCATION, *et al.*,

Plaintiffs,

and

ASHEVILLE CITY BOARD OF  
EDUCATION, *et al.*,

Plaintiff-Intervenors,

v.

STATE OF NORTH CAROLINA, *et al.*,

Defendants.

2017 JUL 24 P 5:03

STATE OF N.C.

BY

JOINT MOTION FOR A  
CASE MANAGEMENT AND SCHEDULING  
ORDER

Plaintiffs Hoke County Board of Education, *et al.* (“Plaintiffs”), the Penn Plaintiff-Intervenors (with Plaintiffs, collectively, the “Plaintiff Parties”), and Defendant State of North Carolina respectfully request, pursuant to N.C. Gen. Stat. § 1A-1, Rules 7 and 16, that this Court enter the *Proposed Case Management and Scheduling Order* attached hereto as **Exhibit 1** (“Proposed Order”). In support of this joint motion, the State and Plaintiff Parties state the following:

**Procedural History**

1. In 1994, a group of parents, students, and school districts in five low-wealth rural counties filed a lawsuit against the State of North Carolina *et al.* alleging that public-school students, particularly in low-wealth counties, were being denied certain education rights that were guaranteed by the North Carolina Constitution.

2. In 1997, the Supreme Court held that the North Carolina Constitution guarantees that every public-school student in North Carolina, regardless of age, need, or residence, is entitled to the “opportunity to receive a sound basic education.” *Leandro v. State*, 346 N.C. 336, 347, 488 S.E.2d 249, 255 (1997) (*Leandro I*). The Supreme Court remanded the case for this Court to determine whether the State was meeting this constitutional obligation. 346 N.C. at 357, 488 S.E.2d at 261.

3. In 2002, in its Final Judgment, this Court held that, in order to meet its constitutional obligations of providing a sound basic education, the State must provide the following to every public-school student in North Carolina:

- a. A “competent, certified, well-trained teacher who is teaching the standard course of study” in every classroom;
- b. A “well-trained competent Principal with the leadership skills and ability to hire and retain competent, certified and well-trained teachers” in every school; and
- c. The “resources necessary to support the effective instructional program” in every school “so that the educational needs of all children, including at-risk children, to have an equal opportunity to obtain a sound basic education, can be met. Final Judgment, pp. 109-10; *Hoke County Bd. of Educ. v. State*, 358 N.C. 605, 636, 599 S.E.2d 365, 389 (2004) (*Leandro II*).

4. This Court found that an inordinate number of children—particularly those in low-wealth school districts—were not receiving an equal opportunity to obtain a sound basic

education, and ordered the State to bring itself into compliance with the three constitutional requirements. 358 N.C. at 647-49, 599 S.E.2d at 396-97.

5. In 2004, the Supreme Court affirmed these holdings and remanded the case for further remedies. 358 N.C. at 641, 599 S.E.2d at 392.

6. Since 2004, this Court has retained and exercised jurisdiction over this case. This Court has conducted numerous hearings and factual inquiries in which the parties have presented evidence of measures undertaken by the State in an attempt to achieve compliance with the constitutional requirements. Additionally, the Court has annually reviewed, among other things, the academic performance of the State's schools and evidence on the teacher and principal populations in those schools.

7. While the State and many of its constituent institutions have made efforts to achieve compliance with the constitutional requirements, Plaintiff Parties maintain that the State still has not achieved compliance with the constitutional requirements established in this case.

8. In order to address the State's constitutional obligations and Plaintiff Parties' ongoing concerns in the most efficient and effective manner possible, Plaintiff Parties and the State believe that a comprehensive approach is required.

9. As set forth in the Proposed Order, Plaintiff Parties and the State agree that an effective, comprehensive approach to achieving demonstrable compliance will require a coordinated effort among educational leaders, government officials, subject-matter experts, the public, and other stakeholders.

10. On July 21, 2017, Governor Roy A. Cooper, III, by Executive Order No. 10, created the Governor's Commission on Access to Sound Basic Education. The members of the Commission will be appointed by the Governor. The primary task of the Commission is to

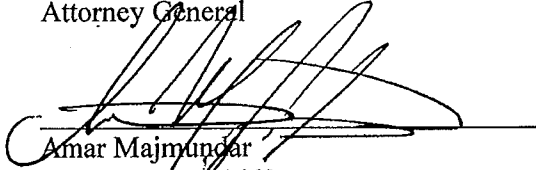
gather information and evidence to assist in the development of a comprehensive plan to address compliance with the constitutional mandates set forth in this case, and to work with an independent professional education consultant to be appointed by the Court to develop specific recommendations as to the means to achieve such compliance. The parties understand that the Commission intends to seek funding through private sources to defray the cost of the consultant, and that adequate measures will be taken to ensure that no funding sources will have any right of control over the work of the consultant or the Commission. Neither the Commission nor the consultant shall control the work of the other.

11. This Court, pursuant to its “inherent authority to manage the cases before it,” has the power to grant Plaintiff Parties and the State’s request for the appointment of a consultant. *SPX Corp. v. Liberty Mut. Ins. Co.*, 210 N.C. App. 562, 573, 709 S.E.2d 441, 449 (2011). When fashioning remedies, courts in North Carolina have consulted with non-parties who possess specialized factual knowledge where necessary. *See, e.g., Stephenson v. Bartlett*, 355 N.C. 354, 385 n.8, 562 S.E.2d 377, 398 n.8 (2002) (encouraging the trial court on remand to consider engaging an expert to assist it with ordering remedial redistricting plans); *Cleveland Constr., Inc. v. Ellis-Don Constr., Inc.*, 210 N.C. App. 522, 527, 709 S.E.2d 512, 518 (2011) (citing approvingly trial court’s decision to appoint a “referee with expertise in public construction law and accounting” to assist the court with its analysis).

12. Accordingly, Plaintiff Parties and the State respectfully request that the Court enter the attached Proposed Order. The parties believe that the processes and timeframes set forth in the Proposed Order are reasonable and should be adopted by the Court.

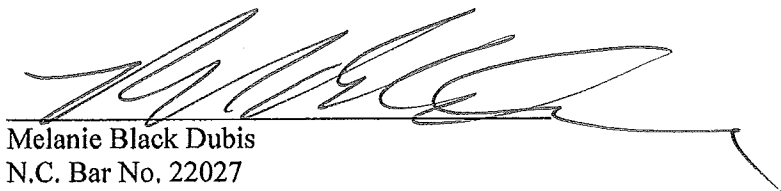
Respectfully submitted, this the 24<sup>th</sup> day of July, 2017.

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**CERTIFICATE OF SERVICE**

I hereby certify that I have this day served a copy of the foregoing JOINT MOTION FOR A CASE MANAGEMENT AND SCHEDULING ORDER in the above-captioned matter upon all parties via United States mail or hand delivery addressed as follows:

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This the 24<sup>th</sup> day of July, 2017.



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